

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN HALE

PLAINTIFF

v.

CAUSE NO. 1:14CV61-LG-JCG

**HARRISON COUNTY BOARD
OF SUPERVISORS, ET AL.**

DEFENDANTS

**ORDER DENYING RELIEF FROM ORDER
DENYING IN FORMA PAUPERIS STATUS**

BEFORE THE COURT is the [214] Motion For Relief From Order Denying In Forma Pauperis filed by Plaintiff John Hale. Hale objects to the Court's finding that he had accrued three strikes, and argues that the Court should not have denied his motion to proceed in forma pauperis on appeal on that basis. (*See* Order, ECF No. 213). He contends that the order assessing the first strike listed, in *Hale v. Mississippi*, 2:06cv245-MTP, was reversed by the Fifth Circuit and the case remanded. Hale asserts this strike cannot be counted, citing *Mayfield v. Tex. Dep't Of Criminal Justice*, 529 F.3d 599, 617 (5th Cir. 2008) ("[W]hen we reverse a district court's decision to dismiss under the PLRA for failure to state a claim, it nullifies the strike imposed against a prisoner under 28 U.S.C. § 1915(g)"). However, after the case was remanded, the district court dismissed it again for failure to state a claim. (*See Hale v. Mississippi*, No. 2:06cv245-MTP Mem. Op. & Order, ECF No. 159). This dismissal counts as a strike. 28 U.S.C. § 1915(g).

Even if Hale has not accrued three strikes, the Court would decline to grant him in forma pauperis status on appeal. His appeal has not been taken in good faith, for the reasons set out in the Magistrate Judge's Report and Recommendation

[200] and the Court's Order adopting the Report and Recommendation [207]. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

IT IS THEREFORE ORDERED AND ADJUDGED that the [214] Motion For Relief From Order Denying In Forma Pauperis filed by Plaintiff John Hale is **DENIED**.

SO ORDERED AND ADJUDGED this the 23rd day of May 2017.

s\ *Louis Guirola, Jr.*

Louis Guirola, Jr.
Chief U.S. District Judge